

**MINUTES**

**MONTANA SENATE  
58th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON BUSINESS AND LABOR**

**Call to Order:** By **VICE CHAIRMAN MIKE SPRAGUE**, on February 5,  
2003 at 9 A.M., in Room 422 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Mike Sprague, Vice Chairman (R)  
Sen. Sherm Anderson (R)  
Sen. Vicki Cocchiarella (D)  
Sen. Kelly Gebhardt (R)  
Sen. Ken (Kim) Hansen (D)  
Sen. Sam Kitzenberg (R)  
Sen. Glenn Roush (D)  
Sen. Don Ryan (D)  
Sen. Carolyn Squires (D)

**Members Excused:** Sen. Dale Mahlum, Chairman (R)  
Sen. Bob Keenan (R)  
Sen. Fred Thomas (R)

**Members Absent:** None.

**Staff Present:** Sherrie Handel, Committee Secretary  
Eddy McClure, Legislative Branch

**Please Note.** These are summary minutes. Testimony and discussion  
are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: SB 235, 1/20/2003; SB 254,  
1/23/2003

Executive Action:

**{Tape: 1; Side: A}**

HEARING ON SB 235

Sponsor: SENATOR JOHN BOHLINGER, SD 7, BILLINGS

Proponents: Gordy Higgins, Department of Labor & Industry; Bob LeCoure, Club Boxing

Opponents: Ty Mahana, Red Lodge and Montana Boxing; Cheryl Walrod, Hamilton Eagles Boxing Club; Dean Walrod, Hamilton Eagles Boxing Club; Mary Caferro, Helena Eagles Boxing Club

Informational Witnesses: Gary Langley, Board of Athletics; Brenda St. Clair, Licensing Bureau Chief, Department of Labor and Industry; Mark Cadwallader, attorney with Department of Labor and Industry

Opening Statement by Sponsor:

SEN. JOHN BOHLINGER, SD 7, BILLINGS, stated he had the privilege and responsibility of representing the good people of SD 7 on the north and south side of the old part of Billings. He stated he has been interested in boxing for many years and went on to describe his experience as a youth and in the Marine Corps. SEN. BOHLINGER related he felt it was important to share his boxing experiences with the committee, because he thought it important that they know he understands the fighting game and the training that a young man must do in order to participate in this sort of athletic event. He found that boxing was a wonderful conditioner as well as a real confidence builder. He stated there is something to be said about being able to take defend oneself. In Montana, he said, we have seen an increased interest in boxing with the advent of club boxing, which came about through enabling legislation in the 2001 session of the legislature. Last year, over 1,400 registered fighters fought in matches in five cities around the state for a 26-week season. With that kind of interest, club boxing has become unmanageable under the present Board of Athletics authority. Last year, the volunteer board was overwhelmed with the 92 events that took place. Because of the expanded interest in club boxing, they find themselves faced this year with an impossible task of trying to monitor what might be up to 182 events. SEN. BOHLINGER read a letter from Gary Langley, Chairman of the Montana Board of Athletics. In it, he shared that, at their November 22, 2002 meeting, the Montana Board of Athletics voted unanimously to eliminate club boxing from its jurisdiction. SEN. BOHLINGER asked for the committee's support of the bill.

**Proponents' Testimony:**

**Gordy Higgins, Department of Labor and Industry**, rose in support of SB 235 and said he could answer any technical questions.

**Bob LeCoure, Club Boxing**, stated his support for SB 235 and pointed out that the Amateur Boxing Federation is on probation from the Olympic Committee. One of the stipulations in that probationary edict against them is that they will not allow other amateur organizations to participate in their events. Twice in the past sessions of the national meeting, a prominent Montana referee, introduced legislation on the floor of the United States Amateur Boxing Federation to allow boxers to return to the United States Amateur Boxing Federation. In conversations with him, he said we would stand a lot better chance of our fighters being accepted if they weren't semi-professional. However, they were classified as amateurs; and that is one of the reasons why we want to be removed from the semi-pro status. Perhaps some day our fighters will be able to go back and participate in the Olympic Games. At the present time, they are a separate amateur organization under separate by-laws, but they hope that they can become an amateur organization. They protect their athletes that are under scholarship with the NCAA and NAIA.

**Opponents' Testimony:**

**Ty Mahana, Red Lodge and Montana Boxing Association**, shared that he is the Chief of Officials for USA Amateur Boxing in the State of Montana and distributed folders of information to the committee, **EXHIBIT (bus25a01)**. **Mr. Mahana** stated his first encounter with Club Boxing was through an article in the Billings Gazette. He called **Mr. LeCoure** and asked if he could be involved in **Mr. LeCoure's** program.

**Mr. Mahana** discussed his concerns surrounding injuries, liability, and lawsuits. He discussed being involved in boxing to develop confidence in young men. In addition, he shared that Club Boxing allowed high school students to use his building for a "smoker" and that the event was held without the benefit of a medical doctor or EMT. He said boxing gloves were used over and over again for each event without being cleaned for protection against bloodborne pathogens. He raised further issues about amateur boxes being paid.

**Cheryl Walrod** stated she has been in amateur boxing for 32 years and stated her agreement with everything said previously by **Mr. Mahana** and expressed her opposition to the bill.

**Dean Walrod** said there were 1,400 athletes registered last year at \$50 per athlete. That is \$70K and he wanted to know where the money goes and how much Club Boxing makes. He discussed looking at the safety of young men and women who step into the ring for Club Boxing.

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**Mary Caferro** rose in opposition to the bill and read a letter from her brother, **Duran Caferro**, coach of the Helena Eagles Boxing Club, **EXHIBIT (bus25a02)**.

**Questions from Committee Members and Responses:**

**SEN. GLENN ROUSH** inquired of **Bob LeCoure** if there is any requirement that he carry liability insurance for his boxers. **Mr. LeCoure** replied they have a \$2M public liability policy which covers everybody that participates in the event. The fighters sign waivers with them and are required to provide their own insurance. All of his fighters are 18 years of age or older and the vast majority have their own insurance.

**SEN. KIM HANSEN** asked **Mr. LeCoure** what type of medical attendants to which he referred earlier in his testimony. **Mr. LeCoure** answered that their chief physician is Dr. William Wagner, Chief of Internal Medicine in Anaconda. Dr. Wagner formed the guidelines Club Boxing follows. They can use a chiropractor, a podiatrist, or even a nurse practitioner.

**SEN. VICKI COCCHIARELLA** asked if their set of rules and regulations could be made available to the committee, to which **Mr. LeCoure** answered in the affirmative.

**SEN COCCHIARELLA** then directed a question to **SEN. BOHLINGER**. She wanted to know if, after hearing the opponents in the room, he had concerns about what he might be doing with this legislation. **SEN. BOHLINGER** thought they had raised some important questions. He thought it is important that some definitions be provided as to just what is an amateur. He didn't want a fighter to lose his amateur status if he is paid. He felt the safety issues also needed to be addressed.

**SEN. SHERM ANDERSON** asked **Gordy Higgins** if the Board of Athletics is under the Department of Labor. **Mr. Higgins** explained that they are administratively attached. Further questions were referred to **Brenda St. Clair, Licensing Bureau Chief, Department of Labor and Industry**, explained that up until the point that Club Boxing was regulated, they contracted with inspectors to oversee those boxing facilities or events. After that point,

when the board made the decision to no longer be involved in it, we stopped. **SEN. ANDERSON** then asked if she could tell him if there was a gap where there were several events that were unregulated. And who would regulate those events if they didn't? The question was referred to **Gary Langley**, who stated that during their last board meeting, they discussed it at length. He had been appointed by the board as a liaison between Club Boxing and the Board of Athletics to make sure all rules are followed. He said high school smokers are not covered by either board.

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**SEN. CAROLYN SQUIRES** expressed her dismay that podiatrists or chiropractors would be considered medical staff at a boxing event. She asked **Mr. Mahana** the type of staff they utilize. He replied that their rules state they must use an M.D. or D.O.

**SEN. COCCHIARELLA** asked **Mr. Mahana** if his organization pays money to the state of Montana. **Mr. Mahana** stated when an athlete registers with them, they pay \$35 for the year with \$17 going to their association. His organization then uses that money to help fund the young men to advance to national tournaments. However, none of the money goes to the state.

**SEN. ROUSH** questioned **Mr. Langley's** involvement in both organizations. They discussed **Mr. Langley's** concerns about the safety of the fighters.

**SEN. MIKE SPRAGUE** wanted a definition of a recognized amateur association. **Mr. Langley** did not have a definition. They went on to discuss acceptance of prize money as being the definition of a professional.

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**SEN. DON RYAN** mentioned a case in Idaho where a boxer died. He asked **Mr. LeCoure** if he knew if there was a lawsuit filed as a result of that accident. **Mr. LeCoure** did not.

**SEN. SPRAGUE** requested that **Mark Cadwallader, attorney for the Department of Labor and Industry**, find out whether the legislature intended the board to be the regulator. **Mr. Cadwallader** offered information, **EXHIBIT (bus25a03)**.

Closing by Sponsor:

**SEN. JOHN BOHLINGER** stated he felt the questions asked had given us all a much better understanding of what is being proposed. He

thought the thoughtful consideration that the committee gave to the questions of the safety of the fighters was key and that the safety of fighters has to be of great concern. In listening to the provisions made to insure the safety of the fighters, he reviewed for the committee a set of rules that were adopted by the Copper Gloves Amateur Boxing Association. In item 5, they referenced medical attendants. They said at least one medical attendant approved by the CGABA must be in attendance and seated at ringside at all times during the competition and must be prepared to deal with any medical situation that might arise. It went on to describe medical attendants' qualifications and position; i.e., medical doctor, chiropractor, podiatrist, physicians assistant or nurse practitioner. In a case where locating one of those types of medical attendants has been exhausted, the use of an EMT could be considered with a written request to the Board of Directors. **SEN. BOHLINGER** submitted the bill for the committee's consideration and thoughtful review.

#### HEARING ON SB 254

**Sponsor:** SENATOR MIKE COONEY, SD 26, HELENA

**Proponents:** Riley Johnson, Enterprise Rent-a-Car; Candace Payne, Montana Rental Car Association; Steve Turkiewicz, Montana Auto Dealers Association

**Opponents:** None

**Informational Witnesses:** Alicia Pichette, State Auditor's Office

#### **Opening Statement by Sponsor:**

**SENATOR MIKE COONEY, SD 26, HELENA,** stated SB 254 was given to him shortly after the election by **Riley Johnson**, who said there is a problem in the rental car industry that has the potential to cause great problems for that industry. It is an issue that stems from a case in Texas. It appeared that the rental car industry could be exposed to some tremendous liability issues as a result of an individual attempting to sell certain products and not being properly licensed to do so. **SEN. COONEY** distributed and discussed one amendment to the bill, **EXHIBIT(bus25a04)**. He said the bottom line is that if this bill does not pass, it will leave a major hole that could cause some terrible problems for the rental car business in the state of Montana.

**Proponents' Testimony:**

**Riley Johnson, Enterprise Rent-a-Car and National**, said SB 254 is a vital bill for Enterprise and National and gave the committee some background. Approximately five years ago in Texas, someone bought automobile liability insurance from a rental car company. He claimed he bought it from an unlicensed insurance person and it didn't cover what he thought it might cover. Therefore, he took legal action and it became a class action suit. It was extremely expensive to all rental car companies, not just Texas. To follow up and to give some protection to the industry, the federal government put a moratorium on this situation with a date of November 1, 2002. The state had to handle it, yet all insurance issues are handled at the state level now. The bottom line was that every agent at a rental car company counter would have to be licensed. The state Auditor's office agreed that the terms were too stringent and helped the car rental companies come up with SB 254. He discussed collision damage waiver and partial damage waiver coverage and asked that the committee pass SB 254.

**{Tape: 3; Side: A}**

**Candace Payne, Montana Rental Car Association**, said she represents large rental car companies such as Hertz along with smaller, independent companies. She cautiously supports the bill if there was some way it could be less prohibitive for the little guy. She admitted she hasn't been able to come up with that language, but asked the committee to work on it now.

**Steve Turkiewicz, Montana Auto Dealers Association**, shared that many of his members have small rental car operations. They understand there are differences between the waivers which are not an insurance product and do not require licensing and those discussed in the bill. If you have a small operation or dealership, you don't have a company to rely on, which means each individual has to get a property casualty license. Obtaining such a license requires a good amount of training and is not limited to just those three insurance that are sold by the entity or individual. It runs the whole gamut of property casualty insurance. It would also require 24 hours of continuing education on a biennial basis. He said he would appreciate the opportunity to continue working with the committee and the sponsor as well as the members of the industry to get the bill done in an understandable workable format that meets the needs of a large organization.

**Opponents' Testimony: None**

**Informational Witness Testimony:**

**Alicia Pichette, State Auditor's office**, offered her assistance as an informational witness. When Enterprise began drafting this bill, they went to her office and asked for some assistance. They didn't want it to conflict in any way with existing insurance licensing statutes.

**Questions from Committee Members and Responses:**

**SEN. GLENN ROUSH** discussed using his Visa card when renting a car and being told he was covered by them. **Ms. Pichette** answered that she, too, had been told by Visa that they would cover her when she rented a car; however, she couldn't really answer for Visa and their policies.

**SEN. KELLY GEBHARDT** inquired of **Ms. Pichette** on the time and cost for obtaining a license. She answered that the cost to obtain a Montana Property Casualty Insurance license is \$75. The individual can either self study or can take a course that is provided. She knew of a course that costs \$300, but the course is not required to take the examination. The course takes 2 1/2 days.

**SEN. CAROLYN SQUIRES** discussed with **Mr. Johnson** concerns about the small operator who doesn't have the support of a big corporation. **Mr. Johnson** deferred to **Jeanne Keller, Risk Manager at Enterprise**. She said you can either have a self-insurance certificate that proves you can handle losses against you or you can have a liability clause as a rental car company. If an agency has a rental that goes out and gets in an accident and kills somebody, then that person has no liability policy, no assets, you can bet the victims will turn to the rental car company in a lawsuit.

**SEN. MIKE SPRAGUE** discussed with **Ms. Keller** liability when renting a motor home or camper trailer or boat. However, car agencies do not rent those types of vehicles.

**Closing by Sponsor:**

**SEN. COONEY** admitted this bill was not perfect; however, everyone would have to agree that it goes a long way to help solve the problem. Even with passage of this bill, the small rental agency owner will have to obtain a license and go through the process if they want to sell this product. They have been trying desperately to figure out a way to apply this bill so that it is fair to everyone and as workable as possible. **SEN. COONEY** asked the committee to consider the amendment, because he thought it



makes a better bill. If the committee was interested in putting further work into the bill and in working with the different people represented at the meeting, he had no problem with it.

**ADJOURNMENT**

Adjournment: 11:24 A.M.

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SEN. DALE MAHLUM, Chairman

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SHERRIE HANDEL, Secretary

DM/SH

**EXHIBIT (bus25aad)**